

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

WP No. 17446 of 2024

(DR. AMAN SHARMA Vs THE STATE OF MADHYA PRADESH AND OTHERS)

Dated : 18-12-2024

Shri Abhinav Dhanodkar - Advocate for the petitioner.

*Shri Manoj Munshi - Senior Advocate with Shri Lucky Jain -
Advocate for respondent No.6.*

*Shri Vishwajeet Joshi - Additional Advocate General for the
respondent / State.*

The petitioner has challenged the constitutional validity of Section 4 and 6 of Madhya Pradesh Vrikshon Ka Parirakshan (Nagariya Kshetra) Adhiniyam, 2001. Section 4 provides for appointment of a 'Tree Officer', which reads as under:

"4. Appointment of Tree Officer.- The State Government may appoint one or more forest officers of the rank not below that of a Gazetted Forest Officer, Commissioner Municipal Corporation or Chief Municipal Officer as "Tree Officer" for the purpose of this Act, for each Urban Area."

V i d e notification No.F-30-4-X-3-2001, dated 02/01/2002, the Commissioner, Municipal Corporation has been appointed as 'Tree Officer'.

In the present case, Municipal Corporation is undertaking development projects of Malhar Ashram and MOG Lines. For these development works, certain old trees are there in the campus which are required to be cut, for which the Commissioner, Indore Municipal Corporation has granted permission under Section 6 of the Act.

The petitioner is challenging the action solely on the ground that the Commissioner, who is a notified 'Tree Officer' cannot grant permission to the Commissioner, Indore Municipal Corporation. According to the petitioner, State Government is required to appoint any Forest Officer not below the rank of Gazetted Forest Officer as Tree Officer also in the cases where the Municipal Corporation comes under the category of 'any person'.

We find substance in the aforesaid contention, the Commissioner, Municipal Corporation, who is implementing authority for development of these two projects could not have acted as a 'Tree Officer' to grant permission for cutting the trees to itself specially for the projects implemented and undertaken by the Indore Municipal Corporation.

We hereby direct the State Government to immediately notify any Forest Officer not below the rank of Gazetted Officer as 'Tree Officer' before whom the Commissioner, Indore Municipal Corporation may apply for the permission for cutting the trees. It is further directed that till this entire procedure is completed, no tree shall be cut on the basis of the permission granted by the Commissioner, Indore Municipal Corporation as Tree Officer in these two projects viz. Malhar Ashram and MOG Lines.

List after four weeks in the **second week of January, 2025**.

Certified copy as per rules.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE